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28 JUL 2006

Dr. Nicholas Sisti, esq.
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In re Application of :
SMITH, et al. :
Application No.: 10/551,737 : DECISION ON PETITION
PCT No.: PCT/DK04/00290 :
Int. Filing Date: 27 April 2004 : UNDER 37 CFR 1.10(c)
Priority Date: 30 April 2003 :
Atty. Docket No.: 05432/100M810-US1 :
For: AROMATIC OXYPHENYL AND AROMATIC :
SULFANYLPHENYL DERIVATIVES :

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT AND NOTICE OF ACCEPTANCE" filed 27 July 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.10. No petition fee is required.

BACKGROUND

On 27 April 2004, applicant filed international application PCT/DK04/00290 which claimed priority to an earlier Australian application filed 30 April 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 11 November 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 November 2005.

On 29 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an Application Data Sheet.

On 08 May 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the proper response.

On 11 July 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 06 June 2006.

On 20 July 2006, applicant filed a revocation of power of attorney with new power of attorney and change of correspondence address.

On 27 July 2006, applicant filed the present petition and request for corrected filing receipt indicating that the papers at issue, satisfying the 35 U.S.C. 371 requirements, were filed 05 June 2006.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
- (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm website shows a date of acceptance by the USPS of "June 05, 2006, 8:34pm, New York, NY 1022." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The application will be given an international filing date of 27 April 2004 under 35 U.S.C. 363 and a date of **05 June 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 11 July 2006 indicating a date of 06 June 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and corrected filing receipt indicating the correct 371 date as detailed above.



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